

## Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

<b>LRB Number</b> <b>09-1849/1</b>	<b>Introduction Number</b> <b>AB-0078</b>	
<b>Description</b> Judicial discretion in certain John Doe proceedings and the provision of attorney representation of state employees at John Doe proceedings		
<b>Fiscal Effect</b>  <b>State:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect  <input checked="" type="checkbox"/> Indeterminate  <div style="display: flex;"> <div style="width: 50%;"> <input type="checkbox"/> Increase Existing Appropriations  <input type="checkbox"/> Decrease Existing Appropriations  <input type="checkbox"/> Create New Appropriations                         </div> <div style="width: 50%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                         </div> </div> </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget  <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Yes                             <input type="checkbox"/> No                         </div> </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> Decrease Costs                     </div> </div>		
<b>Local:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No Local Government Costs  <input type="checkbox"/> Indeterminate  <div style="display: flex;"> <div style="width: 50%;">                     1. <input type="checkbox"/> Increase Costs                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      2. <input type="checkbox"/> Decrease Costs                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 50%;">                     3. <input type="checkbox"/> Increase Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      4. <input type="checkbox"/> Decrease Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> </div> </div> <div style="width: 33%;"> <b>5. Types of Local Government Units Affected</b>  <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns  <input type="checkbox"/> Counties  <input type="checkbox"/> School Districts                         </div> <div style="width: 33%;"> <input type="checkbox"/> Village  <input type="checkbox"/> Others  <input type="checkbox"/> WTCS Districts                         </div> <div style="width: 33%;"> <input type="checkbox"/> Cities                         </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> <b>Fund Sources Affected</b>  <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEGS                     </div> <div> <b>Affected Ch. 20 Appropriations</b> </div> </div>		
<b>Agency/Prepared By</b> DOC/ Sue Loniello (608) 240-5524	<b>Authorized Signature</b> Robert Margolies (608) 240-5056	<b>Date</b> 2/26/2009

**Fiscal Estimate Narratives**  
**DOC 2/26/2009**

LRB Number	09-1849/1	Introduction Number	AB-0078	Estimate Type	Original
<b>Description</b> Judicial discretion in certain John Doe proceedings and the provision of attorney representation of state employees at John Doe proceedings					

**Assumptions Used in Arriving at Fiscal Estimate**

Currently, when an inmate files a John Doe petition alleging that a crime has been committed by a correctional employee, a John Doe proceeding may be convened by the judge. The employee and any other witnesses produced by the inmate are required to appear in court. If the employee seeks legal counsel, the employee would likely have to personally pay for those costs. This could also result in the Department having to pay overtime to another employee to maintain staffing of a post while the employee or other staff witnesses are in court for the John Doe proceeding.

This bill will allow law enforcement and the district attorney to investigate an alleged crime and make a determination if a crime was committed prior to involvement of the courts, which would likely reduce the court time required for John Doe proceedings. The bill would also likely reduce the amount of time inmates and staff would spend outside the institution if it is determined that there is not probable cause that a crime was committed, which could reduce potential staff overtime and costs to transport inmates to the court. The Department's legal counsel workload could also be reduced if the investigation determines that the allegations are baseless, resulting in fewer John Doe proceedings.

Although this bill could reduce the Department workload and costs related to the transport of inmate and staff witnesses and staff monitoring of John Doe hearings, the Department is unable to predict the number of complaints filed or how many of those complaints will be found baseless before a court hearing is held. As a result, a fiscal impact cannot be estimated.

There is no savings or cost increases associated with local jails at this time.

**Long-Range Fiscal Implications**

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<b>Description</b> Judicial discretion in certain John Doe proceedings and the provision of attorney representation of state employees at John Doe proceedings			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
<b>Local:</b>			
<input type="checkbox"/> No Local Government Costs			
<input checked="" type="checkbox"/> Indeterminate			
<b>5.Types of Local Government Units Affected</b>			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
		<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities	
		<input type="checkbox"/> Counties <input type="checkbox"/> Others	
		<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>			
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
<b>Affected Ch. 20 Appropriations</b>			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	
DOJ/ Mark Rinehart (608) 264-9463		Mark Rinehart (608) 264-9463	
		<b>Date</b>	
		3/17/2009	

## Fiscal Estimate Narratives

DOJ 3/17/2009

LRB Number	09-1849/1	Introduction Number	AB-0078	Estimate Type	Original
<b>Description</b> Judicial discretion in certain John Doe proceedings and the provision of attorney representation of state employees at John Doe proceedings					

### Assumptions Used in Arriving at Fiscal Estimate

Under chapter 895.46, a state officer or employee is afforded certain legal protections and benefits provided by the state if the person faces a legal action for acts committed while carrying out the person's state duties, and the court finds that the person was acting within the scope of the person's employment.

2009 Assembly Bill 78 extends the same protections and benefits to a state officer or employee when the person is the subject of a proceeding under chapter 968.26 (John Doe) if the charge is for an act done within the person's official capacity, within the scope of the person's employment, and the attorney general determines that the person was acting in good faith.

According to the Director of State Courts Office, there were 94 John Doe cases filed in 2006 and 132 John Doe cases filed in 2007. DOJ is not certain how many of these cases involved state officers or employees, but there is a rapidly growing trend of prisoners filing John Doe cases against state correctional officers. Under AB 78, in the cases involving state officers or employees, DOJ would have to conduct an investigation to determine if the person acted in good faith. Based on the increase in the number of John Doe cases filed relating to state employees, DOJ estimates that the Civil Litigation Unit will require 1 FTE Assistant Attorney General to handle the increased caseload resulting from the passage of AB 78. The total salary, fringe benefits, supplies, and equipment costs for 1 FTE attorney is approximately \$120,000 annually.

### Long-Range Fiscal Implications